MONTANA LEGISLATIVE HISTORY

Chapter 109 19 63

Bill H 369 S _____ Original bill & history ____C

H. Committee on Public Health Welfare & Safety		S. Committee on Public Health Welfare & Safety	
Hearing Date(s) Feb 08	✓ C	Hearing Date(s) Feb 20	✓ C
Feb 09	✓ C	_____	____C
_____	____C	_____	____C
_____	____C	_____	____C
Date Out _____	____C		

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

Mr. Fred Briggs of the Beer Wholesalers in Billings stated they were very much opposed to this bill as their sales are about 62% in bottles.

John Risken, Helena attorney and legal representative for the United States Brewers Association said his association is the oldest trade association in the county. Their members manufacture approximately 80% of the beer sold in the United States. He said distribution is made according to the buying habits and most people do prefer bottles. We figure, he added, that two out of three homes have beer in their refrigerators and it seems preferred in bottles. He said his association has been aware of the litter problem and have tried to help solve it. He said in 1953 Vermont Legislator banned glass containers in an effort to stop broken bottle litter. It was passed for two years and then extended another two years. After a study in Vermont it was found that this ban had made little difference and they felt maybe the solution was in public education so it was asked not to be reenacted. It seems reasonable to go along with the Vermont findings. He said their asscciation originated the "Keep American Beautiful" campaign and it had met with quite good success.

Alfred Dougherty, Helena attorney, representing Montana Beer Wholesalers Association said they were in opposition to House Bill 381. He said he had studied this bill and had caused Mr. Eskildsen to be visited to explain the impact of this bill on the brewing business. He said this would be disastrous to a principal industry in the state. At one time there were ten breweries in Montana and now there are only three, many have had to close. Cascade County has a payroll from the brewery of $560,000 and they pay in excess of $200,000 taxes in the state but we know they are operating on a close margin. We see no necessity for this bill and urge the committee to put a do not pass on this act.

Mr. Eskildsen again rose in support of his bill saying he doubted that anyone could attest to the fact that people would stop drinking beer if they couldn't buy it in bottles. He doubted there would be any loss in sale of beer at all, he stated, They can still go into a bar and drink it from a bottle and that is where it should be consumed. I agree that a litter law would be a good way to deal with this problem but we have one and it doesn't seem to do much good.

Also in opposition is added the name of O'Brien of Butte Brewing Co.

Next order of business was HOUSE BILL 369 and Mr. Crum explained that this related to bottle clubs in the state.

Mr. Gordon Lippard, Legislative Representative of Montana Licensed Beverage Delaers, would be the first proponent. He said this bill had been originally introduced four years ago by Mr. Battin which outlawed these clubs but did not clearly define just what a bottle club is. We recommend that this bill pass with an amendment containing the definition of a bottle club as Mr. Luxan has defined it.

Mr. Jack Luxan, Attorney for the Liquor Control Board, gave this definition of a bottle club. "A bottle club is hereby defined as any person, persons, partnership, firm, corporation or association maintaining premises, not licensed for the sale of beer or liquor, for a fee or other consideration, including the sale of food, mixes, ice, or any other fluids for alcoholic liquors, or otherwise furnishing premises for such purposes and from which they would derive revenue."

It was asked of Mr. Luxan if he felt the Board would approve of this bill and he answered that he felt they would recommend it do pass. He says it is known that these places do exist where people after the regular 2 A. M. closing will go to a place with their bottles and be served ice, mix, etc. and this should be stopped but can't because the definition of a bottle club was not clearly stated in the older bill.

Mr. Haines moved that HOUSE BILL 369 be placed in a sub-committee, seconded by Mr. Crum. The committee is:

Mr. Crum
Mr. Healy
Mr. Rearden

Next order of business was HOUSE BILL 271 which has to do with issuing of licenses on the basis of population. Mr. Crum explained that Montana has been highly criticized because of the excess of liquor establishments versus our population. This quota has been set up on a population basis so that now there will be no change in number of licenses issued until 1970.

Mr. Gordon Lippard spoke on behalf of this bill, also as a representative of the Montana Licensed Beverage Dealers. He said this type of legislation should have been enacted several years ago. He gave some statistics as follows: Montana has 2.49 taverns for every 1000 population, Nevada has 4 taverns for every thousand and Wisconsin has 3.31 per thousand, so you see, he added there are only two states with more taverns per thousand population than Montana.

Mr. Luxan said there is a grandfather clause in this bill and he also said that fraternal organizations or veterans organizations do not come under this quota and that might be the only loophole in this bill. He said fraternal and veterans organizations were the only ones who can get a license now as theirs is not regulated by population.

He said this bill has no objectionable features as far as the Liquor Board is concerned and will have no real impact as far as they are concerned. He also said there is a clause that should have been inserted in the 1959 legislation to do with disaster clause and he feels it was an oversight. He said a person can take his license to a new location but a new bar can't come in unless he can buy a license from a firm going out of business or until the quota is increased which won't be until 1970.

Mr. Lippard also brought out the fact that if a new business is depending on selling liquor they should investigate whether they can obtain such a license before they build or open up a new establishment because some confusion has arisen in the past over the fact they can't obtain a license.

Mr. Healy moved that HOUSE BILL 369 be put in a sub-committee and Mr. Crum seconded this motion. The committee appointed is:

Mr. Crum
Mr. Healy
Mr. Rearden

Mr. Haines moved that HOUSE BILL 381 DO NOT PASS, Mrs. Nash seconded and the motion carried.

The next order of business was HOUSE BILL 165, which is an air pollution bill. Mr. Northey who is the author of this bill spoke on its behalf. He said this bill has support from both sides of the aisle as it is a growing problem in Montana. He explained the various sections of the bill including definitions, the commission to be created and the appropriation for this commission. He said probably the most important part of this bill is the public education. He said great strides had been made in Missoula through voluntary help and plans and co-operation among various industries but there is a need for some rules and regulations backed by law. He said they certainly did not want to drive industry from their city. He presented a chart showing the content of benzo pyrene in the air of different cities and Missoula was at the very top with Detroit and much higher than Los Angeles, as were some other Montana communities. He also showed air filters comparing several Montana cities and Missoula was the densest.

Rep. Deschamps of Missoula was present and said this air pollution directly affects agriculture. We feel that this polluted air does not too often hurt crops but the livestock that eat the crops can be very much affected. I want to state, he added, that a rancher I know put 100 head of steers out to alfalfa, which had been subjected to this pollution, and the cattle just simply would not eat the alfalfa. He did say that air conditions have always been quite bad in Missoula because of their temperature inversion and they do have a lot of fog but that is an act of God - this air pollution is man caused and a serious problem. Could affect the growth of Missoula he said and they feel this area with its fishing, hunting and recreational advantages could make this the fastest growing area in the state. He want a commission large enough to include representatives of different industries as we feel lay citizens do not know the technical factors involved.

Mr. James Patton, representing Montana Petroleum Association, said the pollution of the atmosphere to the extent that it creates a health hazard should be made unlawful and the same breath I must say that a reasonable use of the atmosphere for the disposition of waste is essential. We believe, he went on, that each local area

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

February 9, 1963

The meeting of the Public Health, Welfare and Safety Committee was held in room 417 on adjournment on February 9, 1963, with all fifteen members in attendance.

The first order of business was HOUSE BILL 84 which has been in a sub-committee. Mr. Spahr, the author of the bill, had contacted the Chairman and said he would like this bill now killed. Mr. Bradford moved that HOUSE BILL 84 DO NOT PASS, seconded by Mr. Reinecke and the motion carried.

HOUSE BILL 368 was the next order of business and the Chairman announced that Mr. Schye, the originator of the bill, had requested him to have this bill killed in committee. Mr. Haines moved that HOUSE BILL 368 DO NOT PASS, seconded by Mr. Bradford, the vote was taken and motion carried.

HOUSE BILL 369 was brought up for action and Mr. Crum reported for the sub-committee on the amendment for the definition of a bottle club. Mr. Haines moved that the amendment to House Bill 369 be adopted, seconded by Mr. Reinecke and carried. Mr. Haines then moved that HOUSE BILL 369 AS AMENDED DO PASS, Mr. Bradford seconded, a vote was taken and the motion carried.

The committee was then asked to consider HOUSE BILL 95 and Mr. Bashor moved that HOUSE BILL 95 DO NOT PASS, seconded by Mr. Haines, and carried.

It was announced by Mr. Reinecke of the sub-committee on HOUSE BILL 165 that they were working on this bill and it would be ready in a short time.

HOUSE BILL 271 was discussed briefly and it was brought to the attention of the committee that an addition was necessary as a portion of the supplement had been overlooked on the original bill. Mr. Bradford moved that the amendment to HOUSE BILL 271 be adopted, Mr. Beck seconded the motion and the motion carried. Mr. Bradford then moved that HOUSE BILL 271 AS AMENDED DO PASS, Mr. Bashor seconded and all voted in favor.

The next order of business was HOUSE BILL 204. Mrs. Nash reported for the sub-committee and presented the amendments and moved they be adopted, seconded by Mr. Bradford, vote carried. Mr. Crum then moved that HOUSE BILL 204 DO PASS AS AMENDED, Mr. Reinecke seconded this motion and the motion carried.

The next order of business was HOUSE BILL 315 providing for the regulation of opticians.

Mr. Al Libra, Helena attorney, was present representing the Montana Dispensing Opticians Association. He said the bill is simply to place a group of professional people under the supervision of the Board of Medical Examiners. We have no law in Montana to govern activities of dispensing opticians and most other states do, he stated. He said his association feels it is in the interest of

MINUTES OF MEETING OF COMMITTEE
ON PUBLIC HEALTH, WELFARE AND SAFETY, STATE SENATE

February 20, 1963

A meeting of the committee on Public Health, Welfare and Safety was called to order by Chairman, O'Neill on February 20, 1963 at 4:20 p.m. in room 423, State Capitol Building.

A quorum being present consideration was given to the following bills: HB 124, HB 271, HB 369.

The following people were present appearing on these bills:
Representative Crum, Yellowstone Co., HB 369 and HB 271 (for)
Representative Pierce, Yellowstone Co., HB 124 (for)
L. R. Hogeland, Montana Medical Association, HB 124 (for)

Discussion of bills:

HB 369 BE CONCURRED IN: CARRIED

Moved by Senator Beley that the committee CONCUR IN HB 369. Seconded by Senator Thiessen. CARRIED.

~~HB 124~~ BE CONCURRED IN

Moved by Senator Hilling that HB 124 be CONCURRED IN. Seconded by Senator Cotton. CARRIED.

HB 271 SUB-Committee

Moved by Senator Cotton and seconded by Senator Melcher that HB 271 be turned over to a SUB-COMMMTTEE. CARRIED.
SUB-COMMITTEE: Senators Melcher, Graham and Hilling.

Adjournment.

R. T. O'Neill, Chairman

CHAPTER 108

An Act to Amend Sections 23-1301 and 23-1312, R. C. M. 1947, Relating to Voting by Elector When Absent From Place of Residence or Physically Incapacitated From Going to Polls; Voting Before Election Day by Prospective Absentee or Physically Incapacitated Elector, by Providing that Same Should Apply to School Elections.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 23-1301, R. C. M. 1947, is amended to read as follows:

Absent or physically incapacitated elector may vote—elections.

"23-1301. **Voting by elector when absent from place of residence or physically incapacitated from going to polls.** Any qualified elector of this state, having complied with the laws in regard to registration, who is absent from the county or who is physically incapacitated from attending the precinct poll of which he is an elector on the day of holding any general or special election, or primary election for the nomination of candidates for such general election, or any municipal, *school,* general, special or primary election, may vote at any such election as hereinafter provided."

Amending clause.

Section 2. Section 23-1312, R. C. M. 1947, is amended to read as follows:

Prospective absentee elector may vote before county, city, town, school clerk.

"23-1312. **Voting before election day by prospective absentee or physically incapacitated elector.** Any qualified elector who is present in his county after the official ballots of such county *or school district* have been printed and who has reason to believe that he will be absent from such county *or school district* on election day, or physically incapacitated as provided in section 23-1302 may vote before he leaves his county *or school district* or prior to the inception of such physical incapacity, in like manner as an absent or physically incapacitated voter, before the county or city or town clerk *or school district clerk,* or some officer authorized to administer oaths and having an official seal; and the provisions of this act shall be deemed to apply to such voting. If the ballot be marked before the county or city or town *or school district* clerk it shall be his duty to deal with it in the same manner as if it had come by mail."

Duty of clerk.

Section 3. The state superintendent of public instruction shall prepare the form of application for absentee voter ballot for school districts and such other forms and regulations as may be necessary to carry out the purpose of this act, as it pertains to school districts.

Form of absentee ballot—school elections.

Approved March 1, 1963.

CHAPTER 109

An Act to Amend Section 4-172, R. C. M 1947, Enacted as Chapter 200, Laws of 1959, Relating to Bottle Clubs and Containing Definitions; and Providing for an Effective Date and Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 4-172, R. C. M. 1947, is hereby amended to read as follows:

Amending clause.

"4-172. **Bottle clubs prohibited.** The operation of beer or liquor or alcoholic beverage bottle clubs is hereby prohibited by any person, persons, partnership, firm, corporation or association. *A bottle club is hereby defined as any person, persons, partnership, firm, corporation or association maintaining premises, not licensed for the sale of beer or liquor, for a fee or other consideration, including the sale of food, mixes, ice, or any other fluids for alcoholic liquors, or otherwise furnishing premises for such purposes and from which they would derive revenue."*

Bottle clubs prohibited.

Bottle club defined.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Effective immediately.

Approved March 1, 1963.

CHAPTER 110

An Act Providing That Moneys Received by the State as Indemnification for Damage to State Buildings May Only be Used to Repair the Damaged Property, to Replace the Damaged Property, or be Transferred to the